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Total Number of Pages in This Submission

Application Number	10/612,398
Filing Date	July 01, 2003
First Named Inventor	Markus AHOLAINEN
Art Unit	2685
Examiner Name	Dai PHUONG
Attorney Docket Number	944-004.030

ENCLOSURES (Check all that apply)

<input checked="" type="checkbox"/> Fee Transmittal Form <input checked="" type="checkbox"/> Fee Attached <input type="checkbox"/> Amendment/Reply <input type="checkbox"/> After Final <input type="checkbox"/> Affidavits/declaration(s) <input type="checkbox"/> Extension of Time Request <input type="checkbox"/> Express Abandonment Request <input type="checkbox"/> Information Disclosure Statement <input type="checkbox"/> Certified Copy of Priority Document(s) <input type="checkbox"/> Reply to Missing Parts/Incomplete Application <input type="checkbox"/> Reply to Missing Parts under 37 CFR 1.52 or 1.53	<input type="checkbox"/> Drawing(s) <input type="checkbox"/> Licensing-related Papers <input type="checkbox"/> Petition <input type="checkbox"/> Petition to Convert to a Provisional Application <input type="checkbox"/> Power of Attorney, Revocation Change of Correspondence Address <input type="checkbox"/> Terminal Disclaimer <input type="checkbox"/> Request for Refund <input type="checkbox"/> CD, Number of CD(s) _____ <input type="checkbox"/> Landscape Table on CD	<input type="checkbox"/> After Allowance Communication to TC <input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences <input checked="" type="checkbox"/> Appeal Communication to TC (Appeal Notice, Brief, Reply Brief) <input type="checkbox"/> Proprietary Information <input type="checkbox"/> Status Letter <input type="checkbox"/> Other Enclosure(s) (please identify below):
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SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

Firm Name	Ware, Fressola, Van Der Sluys & Adolphson LLP		
Signature			
Printed name	James A. Retter		
Date	April 02, 2007	Reg. No.	41,266

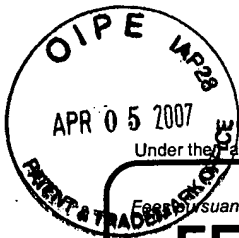
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Signature			
Typed or printed name	Annemarie Maher	Date	April 02, 2007

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Fee pursuant to the Consolidated Appropriations Act, 2005 (H.R. 4818).

FEE TRANSMITTAL
For FY 2007☐ Applicant claims small entity status. See 37 CFR 1.27**TOTAL AMOUNT OF PAYMENT** (\$) 500.00**Complete if Known**

Application Number	10/612,398
Filing Date	July 01, 2003
First Named Inventor	Markus AHOLAINEN
Examiner Name	Dai PHUONG
Art Unit	2685
Attorney Docket No.	944-004.030

METHOD OF PAYMENT (check all that apply)☒ Check ☐ Credit Card ☐ Money Order ☐ None ☐ Other (please identify): _____☒ Deposit Account Deposit Account Number: 23-0442 Deposit Account Name: Ware, Fressola et al.

For the above-identified deposit account, the Director is hereby authorized to: (check all that apply)

☐ Charge fee(s) indicated below ☐ Charge fee(s) indicated below, except for the filing fee☒ Charge any additional fee(s) or underpayments of fee(s) under 37 CFR 1.16 and 1.17 ☒ Credit any overpayments**WARNING:** Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.**FEE CALCULATION****1. BASIC FILING, SEARCH, AND EXAMINATION FEES**

Application Type	FILING FEES		SEARCH FEES		EXAMINATION FEES		Fees Paid (\$)
	Fee (\$)	Small Entity Fee (\$)	Fee (\$)	Small Entity Fee (\$)	Fee (\$)	Small Entity Fee (\$)	
Utility	300	150	500	250	200	100	
Design	200	100	100	50	130	65	
Plant	200	100	300	150	160	80	
Reissue	300	150	500	250	600	300	
Provisional	200	100	0	0	0	0	

2. EXCESS CLAIM FEES**Fee Description**

	Fee (\$)	Small Entity Fee (\$)
Each claim over 20 (including Reissues)	50	25
Each independent claim over 3 (including Reissues)	200	100
Multiple dependent claims	360	180

Total Claims	Extra Claims	Fee (\$)	Fee Paid (\$)
_____ - 20 or HP = _____ x _____ = _____			

HP = highest number of total claims paid for, if greater than 20.

Indep. Claims	Extra Claims	Fee (\$)	Fee Paid (\$)
_____ - 3 or HP = _____ x _____ = _____			

HP = highest number of independent claims paid for, if greater than 3.

3. APPLICATION SIZE FEE

If the specification and drawings exceed 100 sheets of paper (excluding electronically filed sequence or computer listings under 37 CFR 1.52(e)), the application size fee due is \$250 (\$125 for small entity) for each additional 50 sheets or fraction thereof. See 35 U.S.C. 41(a)(1)(G) and 37 CFR 1.16(s).

Total Sheets	Extra Sheets	Number of each additional 50 or fraction thereof	Fee (\$)	Fee Paid (\$)
_____ - 100 = _____ / 50 = _____ (round up to a whole number) x _____ = _____				

4. OTHER FEE(S)

Non-English Specification, \$130 fee (no small entity discount)

Other (e.g., late filing surcharge): filing appeal brief**Fees Paid (\$)**

500.00

SUBMITTED BY

Signature		Registration No. (Attorney/Agent) 41,266	Telephone 203-261-1234
Name (Print/Type)	James A. Retter	Date April 02, 2007	

This collection of information is required by 37 CFR 1.136. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 30 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES**

First named inventor: Aholainen, Markus

Serial No.: 10/612,398

Filed: 1 July 2003

Title: METHOD AND APPARATUS FOR AUTOMATICALLY SELECTING A
BEARER FOR A WIRELESS CONNECTION

Group Art Unit: 2685

Examiner: Phuong, Dai

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BRIEF FOR APPELLANTS

Sir:

This is a brief for an appeal from an Office Action mailed 14 November 2006, made final, to which applicant filed a request for reconsideration and in response received an Advisory Action, mailed 23 Jan. 2007, maintaining the rejections.

This brief follows a Notice of Appeal filed (received by the Office) on 12 Feb. 2007.

For all of the reasons given below, it is the belief of the undersigned that the claims of the application do distinguish the invention from the art relied on by the Examiner. Nevertheless, the undersigned is always willing to discuss possible amendments to any claims to clarify or resolve any issues related to claim interpretation that may remain after the Examiner has reviewed applicant's brief. The Examiner is strongly encouraged to call the undersigned to discuss making any such amendments.

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I. THE REAL PARTY IN INTEREST

The real party in interest is Nokia Corporation, having a principal place of business at Keilalahdentie 4, FIN-02150 Espoo, Finland.

II. RELATED APPEALS AND INTERFERENCES

There are no related appeals or interferences.

III. STATUS OF CLAIMS

The Office examined claims 1, 3-10, 13, 15, 17-18, and 25-49, and rejected same. All claims are appealed, but only the independent claims are argued, namely claims 1, 15, 25, 27, 32, 34, 39, 42 and 44.

IV. STATUS OF AMENDMENTS

No amendments have been filed since the mailing of the final Office action.

V. SUMMARY OF CLAIMED SUBJECT MATTER

A concise explanation of the subject matter defined in each of the independent claims involved in the appeal, referring to the specification by page and line number, and to the drawing, if any, by reference characters, is provided here.

The invention provides a method for use by a communication device, and it also provides an apparatus for performing the method. A method according to the invention enables automatic selection of a "bearer" (communication technology, such as Bluetooth, UTRAN or WLAN) so that a user of a telecommunications device can establish a connection with another user without having to indicate to the telecommunications device a particular bearer to use, i.e. in case the other user is reachable using different bearers, and even in case the other user has more than

one telecommunication device by which the other user can be reached.

As to claim 1: Referring to Figure 1 and also to Figure 2, to enable a device 11 to automatically select a bearer for providing a connection 14 to a second device 12, a method according to the invention includes storing (see block 20 of Figure 2) in a contacts bearer data store 11d (and see also contacts bearer data store 11d' of Figure 4) association information for a contact (e.g. the contact identified by the "name" C1-ID in Figure 1, so that C1-ID is therefore an identifier for the contact) that is indicated in the contacts bearer data store by an identifier (e.g. C1-ID), the association information including a list of at least two possible bearers for providing a connection to the contact (the list for contact C1-ID in Figure 1 made up of the bearer indicated by C1-B1-ID having address C1-B1-addr and the bearer indicated by C1-B2-ID having address C1-B2-addr), wherein each of the at least two possible bearers for the contact is stored so as to be associated with the contact via the identifier for the contact, as shown in Figure 1 by having the list made up of C1-B1-ID and C1-B2-ID for contact C1-ID follow the identifier C1-ID. This storing is explained in the disclosure at e.g. page 11, lines 1-4. As one skilled in the art would appreciate, the "storing" recited in claim 1 is the storing performed by the device 11 itself, based on the user inputs referred to at page 11. At page 8, lines 8-15, the application explains that what is stored for the bearer includes at least one bearer identifier identifying the bearer (by which the contact can at least sometimes be reached), and includes layer 2 (link layer) addresses--i.e. MAC (Media Access Control) addresses--of the wireless adapters available in the device of the contact, i.e. a layer 2 address for each identified bearer (which is a unique address for connecting to the device of the contact via the bearer).

Claim 1 also recites selecting (see blocks 23-28 illustrating a selection according to one embodiment, one in which a selection strategy is used) from the contacts bearer data store one of the at least two possible bearers for the contact based on the (contact) identifier and either based on a predetermined selection strategy or based on trying each of the at least two possible bearers in turn until the connection is made. See the application at e.g. page 11, lines 9-32. At page 9, lines 9-12, it is explained that it is the network/ bearer selector (NS) 11a (Figure 1) that actually selects the bearer. At page 3, line 18, it is explained that instead of the NS selecting a bearer according to some predetermined selection strategy, each bearer can be selected in turn (in the order stored in the contacts bearer data store).

Claim 1 also recites that the selecting of the bearer for the contact is performed automatically without requiring an input by a user of the device. This is explained in the application at e.g. page 3 at lines 19-22, on page 6 at line 28, and on page 8 at line 3.

As to both claims 15 and 25: Referring again to Figure 1 and also to Figure 2, to enable a communication device 11 to automatically select a bearer for providing a connection 14 to a second communication device 12, an apparatus according to the invention as in both claims 15 and 25 comprises: a contacts bearer data store 11d, for storing association information for a contact that is indicated in the contacts bearer data store by an identifier, the association information including a list of at least two possible bearers for providing a connection to the contact, wherein each of the at least two possible bearers for the contact is stored so as to be associated with the contact via the identifier for the contact. See page 8, lines 4-15, and note in particular the explanation that the "bearer information ... is

arranged by contact, i.e. by a name or identifier used to indicate a party."

The apparatus according to claim 15 also includes means, such as network/ bearer selector 11a, for selecting from the contacts bearer data store one of the at least two possible bearers for the contact based on the identifier and either based on a predetermined selection strategy or based on trying each of the at least two possible bearers in turn until the connection is made. See the application at page 8, lines 3-6, for a description of the network/ bearer selector 11a, and see page 9, line 10, for a description of use of a predetermined strategy, and see page 3, line 18, for a description of simply trying connections for a contact in turn. At page 5, lines 16-23, the application explains that the invention also provides a computer program product comprising a computer readable storage structure embodying computer program code thereon for execution by a computer processor in a first device, the computer program code for use in providing for the a connection from one communication device to another, the computer program code including instructions so that a host communication device (i.e. a device including the processor that executes the instructions of the computer program) operates according to a method provided by the invention, and so the selecting means recited in claim 15, and illustrated as network/ bearer selector 11a, can be provided as a computer program, i.e. as a software module.

The apparatus according to claim 25 also includes a network/ bearer selector 11a, for selecting from the contacts bearer data store one of the at least two possible bearers for the contact based on the identifier and either based on a predetermined selection strategy or based on trying each of the at least two possible bearers in turn until the connection is made. See the application at page 8, lines 3-6, for a description of the network/ bearer selector 11a, and see page 9, line 10, for a

description of use of a predetermined strategy, and see page 3, line 18, for a description of simply trying connections for a contact in turn.

Finally, both claim 15 and claim 25 also recite that the apparatus is configured to select the bearer for the contact automatically without requiring an input by a user of the communication device. This is explained in the application at e.g. page 3 at lines 19-22, on page 6 at line 28, and on page 8 at line 3.

As to claim 27: Referring again to Figure 1 and also to Figure 2, to enable a communication device 11 to automatically select a bearer for providing a connection 14 to a second communication device 12, a method according to the invention as in claim 27 comprises storing (see block 20 of Figure 2) in a contacts bearer data store 11d a plurality of bearers forming a list of possible bearers for a contact that is indicated by an identifier in the contacts bearer data store (e.g. C1-ID), wherein the bearers are for use in communicating with the contact and are stored in the contacts bearer data store so as to be associated with the contact via the identifier (as shown in Figure 1). This storing is explained in the disclosure at e.g. page 11, lines 1-4.

The method of claim 27 also includes selecting a bearer for the contact from the list of possible bearers for the contact based on the identifier. See blocks 23-27 illustrating a selection according to one embodiment, one in which a selection strategy is used. At page 9, lines 9-12, it is explained that it is the network/ bearer selector (NS) 11a (Figure 1) that actually selects the bearer. Claim 27 next recites attempting to establish communication (as e.g. in block 28 of Figure 2) with the contact using the selected bearer. See the application at e.g. page 11, lines 9-32.

As to claim 32: Referring again to Figure 1 and also to Figure 2, to enable a communication device 11 to automatically select a bearer for providing a connection 14 to a second communication device 12, an apparatus according to the invention as in claim 32 comprises: data store means 11d for storing a plurality of bearers forming a list of bearers for a contact that is indicated by an identifier in the data store means, wherein the bearers are for use in communicating with the contact and the data store means is configured to store the bearers for the contact so as to be associated with the contact via the identifier. See page 8, lines 4-15, and note in particular the explanation that the "bearer information ... is arranged by contact, i.e. by a name or identifier used to indicate a party."

Claim 32 also recites means for selecting a bearer for the contact from the list of possible bearers for the contact based on the identifier, and for attempting to establish communication with the contact using the selected bearer. The means for selecting the bearer is illustrated in Figure 1 as network/bearer selector 11a, and as indicated in the application at page 5, lines 16-23, the network/ bearer selector 11a can be a computer program.

As to claim 34: Referring again to Figure 1 and also to Figure 2, to enable a communication device 11 to automatically select a bearer for providing a connection 14 to a second communication device 12, an apparatus according to the invention as in claim 34 comprises: a contacts bearer data store 11d for storing a plurality of bearers forming a list of bearers for a contact that is indicated by an identifier in the data store means, wherein the bearers are for use in communicating with the contact and the data store means is configured to store the bearers for the contact so as to be associated with the contact via the identifier. See page 8, lines 4-15, and note in particular the explanation that the "bearer information ... is

arranged by contact, i.e. by a name or identifier used to indicate a party."

Claim 34 also recites a network/ bearer selector 11a for selecting a bearer for the contact from the list of possible bearers for the contact based on the identifier, and for attempting to establish communication with the contact using the selected bearer. The network/ bearer selector is illustrated in Figure 1 as network/ bearer selector 11a, and as indicated in the application at page 5, lines 16-23, it can be a computer program.

As to claim 39: Referring again to Figure 1 and also to Figure 2, and to the application at page 11 at lines 9-33, to enable a communication device 11 to automatically select a bearer for providing a connection 14 to a second communication device 12, a method according to the invention as in claim 39 comprises: receiving an input from a user of the wireless communication device indicating a command for contacting a second user (as in block 23 of Figure 2); obtaining association information relating to contacting the second user, wherein the association information includes at least two possible bearers for establishing a wireless communication connection with any of one or more devices of the second user, and the association information is related to contacting the second user via an identifier of the second user included with or indicated in the association information. The association information obtained in the recited step encompasses retrieving such information from a data store (the contacts/ bearer data store 11d), as illustrated in block 24. But the recited step also encompasses obtaining association information any time prior to using it to select a bearer, and so the obtaining of the association information is also illustrated as block 20 in Figure 2, and can any one of the different ways explained at page 14, in the paragraphs beginning at lines 1, 8 and 22 (and illustrated in Figure 2 as block 20). Also, the application explains at page 13, lines 9-12, that the

association information can be obtained and stored in a data store dynamically, i.e. at the time it is needed, and can then be discarded.

Claim 39 also recites selecting one of the at least two possible bearers for contacting the second user based on the identifier, as illustrated as blocks 23-27, and explained at page 11, lines 9-29. Finally, claim 39 also recites attempting to establish communication with the second user by initializing a wireless communication connection via the selected bearer, as illustrated in block 28, and explained at page 11, lines 29-33.

As to claim 42: Referring again to Figure 1 and also to Figure 2, to enable a communication device 11 to automatically select a bearer for providing a connection 14 to a second communication device 12, an apparatus according to the invention as in claim 42 comprises means for receiving an input from a user of the wireless communication device indicating a command for contacting a second user. The means for receiving an input can be a computer program, as indicated in the application at page 5, lines 16-23.

The apparatus also comprises means for obtaining association information relating to contacting the second user, wherein the association information includes at least two possible bearers for establishing a wireless communication connection with any of one or more devices of the second user, and the association information is related to contacting the second user via an identifier of the second user included with or indicated in the association information. The application explains at page 8 at lines 6-7 that the network/ bearer selector 11a in Figure 1 obtains bearer information from the contacts bearer data store 11d, and thus the means for obtaining association information can be the network/ bearer selector 11a, which, per the application at page 5 at lines 16-23, can be a computer program. The association information can be information retrieved from a data

store (the contacts/ bearer data store 11d), as illustrated in block 24. But it can also be information obtained any time prior to using it to select a bearer, and so can be means for obtaining such information according to any one of the different ways explained at page 14, in the paragraphs beginning at lines 1, 8 and 22 (and illustrated in Figure 2 as block 20). Also, the application explains at page 13, lines 9-12, that the association information can be obtained and stored in a data store dynamically, i.e. at the time it is needed, and can then be discarded.

The apparatus as in claim 42 also comprises means for selecting one of the at least two possible bearers for contacting the second user based on the identifier. The application explains at page 8 at lines 4-5 that the network/ bearer selector 11a selects bearer information for a contact from the contacts bearer data store 11d where the information is "arranged by contact, i.e. by a name or identifier used to indicate a party."

Finally, the apparatus as in claim 42 also comprises means for attempting to establish communication with the second user by initializing a wireless communication connection via the selected bearer, means such as the network/ bearer selector 11a, illustrated in Figure 1, showing a connection between network/ bearer selector 11a of user equipment (UE) terminal number 1/ communication device 11 and another communication device 12 (indicated as UE2).

As to claim 44: Referring again to Figure 1 and also to Figure 2, to enable a communication device 11 to automatically select a bearer for providing a connection 14 to a second communication device 12, an apparatus according to the invention as in claim 44 comprises a processor (referred to at page 5, line 19), configured to:

receive an input from a user of the wireless communication device indicating a command for contacting a second user (as illustrated at block 23 of Figure 2);

obtain association information relating to contacting the second user (as illustrated at block 20 or block 24 of Figure 2), wherein the association information includes at least two possible bearers for establishing a wireless communication connection with any of one or more devices of the second user, and the association information is related to contacting the second user via an identifier of the second user included with or indicated in the association information (as illustrated as contacts bearer data store 11d of Figure 1 of 11d' of Figure 4, or as created dynamically, per the application at page 13, lines 9-12);

select one of the at least two possible bearers for contacting the second user based on the identifier (as illustrated at blocks 24-27 for one embodiment of the invention, but note that other embodiments are possible, and in particular those not including comparing the list of bearers by which the contact can be reached with the list of bearers available/useable by the communication device 11 using the claimed apparatus); and

attempt to establish communication with the second user by initializing a wireless communication connection via the selected bearer (as in block 28 of Figure 2).

VI. GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL

The following grounds of rejection are to be reviewed:

the rejections of claims 27, 32, 34, 39, 42 and 44 under 35 USC 102(e) as being anticipated by Fukasawa (US Pat. App. Pub. No. 20060133307); and

the rejections of claims 1, 15 and 25 under 35 USC 103 as being as being unpatentable over Fukasawa in view of Kukkohovi (US Pat. No. 6,119,003).

VII. ARGUMENT

A. Error in rejection of claims 27, 32, 34, 39, 42 and 44 under 35 USC §102

Claims 27, 32, 34, 39, 42 and 44 are rejected under 35 USC §102(e) as being anticipated by Fukasawa (US Pat. App. Pub. No. 20060133307).

All of the subject claims include as limitations storing bearers for a contact indicated by an identifier (i.e. the contact is indicated by the identifier), and storing the bearers so as to be associated with the contact via the identifier for the contact, and then using the identifier for determining bearers to try in establishing a connection with the contact.

In particular, claim 27 recites a method, comprising: storing in a contacts bearer data store a plurality of bearers forming a list of possible bearers for a contact that is indicated by an identifier in the contacts bearer data store, wherein the bearers are for use in communicating with the contact and are stored in the contacts bearer data store so as to be associated with the contact via the identifier; and selecting a bearer for the contact from the list of possible bearers for the contact based on the identifier, and attempting to establish communication with the contact using the selected bearer.

The Examiner relies on pars. [0110]-[0118] of Fukasawa for the subject rejections. Applicant respectfully submits that Fukasawa simply teaches storing a list of bearers. There is no teaching of storing an associated contact, as required by the claims. The bearers are certainly of potential use in establishing a connection with a contact, but not any particular contact, i.e. the bearers are not stored so as to be associated

with any particular contact, as required by the rejected claims. Fukasawa teaches a bearer selection table (see Fig. 10), but the table associates bearers with applications (e.g. mail), not contacts. Fukasawa shows that for the mail application the user of the device prefers GPRS-A as the bearer, WLAN as the next option, and finally GSM-B. This is not at all the same as what is required by the subject claims; there is simply no teaching or suggestion by Fukasawa of storing a list of bearers for a particular contact, as required by the subject claims. A list as required by the subject claims is illustrated as table 11d in Fig. 1. The table 11d includes a first contact, having an identifier (*called a name in Fig. 1*) C1-ID, and includes a list of bearers for the first contact, the first bearer of the list having an identifier C1-B1-ID (which is therefore a *bearer identifier, not the (contact) identifier recited in claim 27*), and so on.

In response, in the Final Office action, the Examiner has asserted that:

Fukasawa disclose that when mobile endpoint 12 performs an outgoing call, e.g. voice call or download image; and an application/ bearer management detects an active application (voice call or download image) based on the outing call.

From the active application, the application/ bearer management used a bearer configuration table and a bearer selection table (see Fig. 9 to Fig. 13) to assign at least one of plurality available bearers (see paragraph 0081 to paragraph 0082), e.g. GSM-A, GSM-B, WLAN and GPRS-B, corresponding to the active application (voice call or download image) (see paragraph 115 to paragraph 128). It should be noted that the table including association information, e.g. bandwidth, latency, BER, reliability and cost. It is inherent that the association information including a network address of each bearer for connection between mobile endpoint and bearers. The applicant's attention is directed do the disclosure of the reference Fukasawa et al., paragraph 0094 to paragraph 0148.

Second, Applicant used a particular words recited in the claims, e.g. "association information" and "contact". During patent examination, the pending claims must be given their broadest reasonable interpretation. ...

Here are paragraphs [0081] to [0082]:

[0081] As also shown in FIG. 1, according to the present invention it is proposed to combine heterogeneous wireless communication bearer services for support of active applications--e.g., multimedia applications divided into voice, data, image, etc.--running at the mobile endpoint 12.

[0082] For the example shown in FIG. 1, there may be achieved a total bandwidth of 5 Mbps through combination of the Wireless LAN network providing 3 Mbps, the Hyper LAN providing 77 kbps, WCDMA providing 1.9 Mbps and GSM providing 23 kbps of bandwidth.

Thus, the paragraphs relied on for a teaching of "assign[ing] at least one of plurality available bearers" in fact teach quite the opposite. They teach using all available bearers, in combination, to achieve greater bandwidth than any single one of the bearers could provide.

Further, in respect to the interpretation of "contact," while applicant does not in any way dispute that the pending claims must be given their broadest reasonable interpretation, applicant respectfully submits that the claims define the subject term in a way that makes the interpretation by the Examiner unreasonable.

Considering claim 27 and the term "contact" recited therein, since claim 27 recites "the bearers are for use in communicating with the contact," a "contact" must at least be an entity that can be contacted. Since the Examiner asserts that "the application/ bearer management used a bearer configuration table and a bearer selection table (see Fig. 9 to Fig. 13) to assign at least one of plurality available bearers (see paragraph 0081 to paragraph 0082), e.g. GSM-A, GSM-B, WLAN and GPRS-B, corresponding to the active application (voice call or download image)," it appears that the Examiner is equating an "active

application" to a "contact." But the claims require that whatever interpretation might be given, a contact must at least be an entity that can be contacted, and to say that an "active application" can be contacted is nonsensical, since the "active application" is using the selected bearer to establish communication. Hence the interpretation of "contact" made by the Examiner is unreasonable.

In respect to the interpretation of the disputed term "contact," applicant respectfully submits that it is proper and necessary for the Examiner to look to the specification to interpret these terms. The Federal Circuit, in *Phillips vs. AWH Corp.*, 415 F.3d 1303, 75 USPQ.2d 1321 (Fed. Cir. 2005), an *en banc* decision, explained again that:

[T]he specification is always highly relevant to the claim construction analysis. Usually, it is dispositive; it is the single best guide to the meaning of a disputed term.

The court further explained:

That starting point [for understanding a claim term] is based on the well-settled understanding that inventors are typically persons skilled in the field of the invention and that patents are addressed to and intended to be read by others of skill in the pertinent art. ... Importantly, the person of ordinary skill in the art is deemed to read the claim term not only in the context of the particular claim in which the disputed term appears, but in the context of the entire patent, including the specification.

The application is replete with examples that make clear that a contact is a person that a user might wish to communicate with, i.e. contact. In particular, at page 8, line 4, the application provides:

To automatically select the bearer for providing the connection 14, NS 11a refers to a data store 11d of bearer information (called here a contacts bearer data store) arranged by contact, i.e. by a name or identifier used to indicate a party.

Thus as used in the application, a "contact" is a party, i.e. a person or perhaps a business or organization, and so a "contact" cannot be said to encompass an "active application." Applicant respectfully urges the Examiner to restrict the interpretation of "contacts" so as to encompass parties to be contacted but not active applications that us a bearer for communication with a party, irrespective of the party being contacted.

What is asserted here for claim 27 applies just as well to claims 32, 34, 39, 42 and 44.

For the reasons given, then, applicant respectfully submits that the rejection of claims 27, 32, 34, 39, 42 and 44 under 35 USC §102 is error.

B. Error in rejection of claims 1, 15 and 25 under 35 USC §103

In rejecting claims 1, 15 and 25 under 35 USC §103, the Examiner relies on Fukasawa as applied to claim 27. Thus, all the arguments set out above regarding claim 27 also apply to claims 1, 15 and 25.

Further, though, in rejecting claim 1, the Examiner relies (again) on Fig. 7 and paras. [0110]-[0118] of Fukasawa as disclosing the "the association information including a list of at least two possible bearers for providing a connection to the contact."

Claim 1 recites "storing in a contacts bearer data store association information for a contact that is indicated in the contacts bearer data store by an identifier, the association information including a list of at least two possible bearers for providing a connection to the contact, wherein each of the at least two possible bearers for the contact is stored so as to be associated with the contact via the identifier for the contact." So whatever "association information" is, it is at least a list of two or more bearers for providing a connection to a contact, and is stored so as to be associated with the contact via the

contact identifier. (Also, like claim 27, claim 1 requires that a contact be an entity that can at least be contacted, which cannot be said of "an active application.")

Thus, the term "association information" has a well-defined meaning that cannot reasonably be asserted as encompassing what the Examiner asserts, which, as applicant understands the Office action (from page 13, first paragraph), appears to be "bandwidth, latency, BER, reliability and cost." While such information may be included in "association information" (where it might be provided for each bearer), such information does not include the contact identifier and so cannot be asserted to be the "association information" recited in claim 1 based on the meaning of that term as provided by claim 1 itself. Applicant sees that in the formal rejection of claim 1, at page 6 of the Office action previous to the final Office action, the Examiner appears to equate "association information" to information indicating "active bearers and active applications." This still does not include the contact identifier as required by claim 1, according to the meaning of "contact" provided by claim 1. Thus, the interpretation(s) of "association information" made by the Examiner is inconsistent with the meaning of that term as provided by claim 1 itself.

The same argument applies also to claims 15 and 25.

For the reasons given, then, applicant respectfully submits that the rejection of claims 1, 15 and 25 under 35 USC §103 is error.

B. Corollaries of the Preceding Arguments

It has been argued above that there was error in rejecting all of the pending independent claims. Accordingly, in view of the dependencies of all of the other claims, it is here asserted that their rejections are also error.

For all of the aforementioned reasons, it is respectfully submitted that the rejections of all the claims in the application are error, and the rejections should be reversed. Allowance of all the claims in the application is earnestly solicited.

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Date

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VIII. CLAIMS APPENDIX

The following are the claims involved in the appeal.

1. (Previously presented) A method for a communication device, comprising:

storing in a contacts bearer data store association information for a contact that is indicated in the contacts bearer data store by an identifier, the association information including a list of at least two possible bearers for providing a connection to the contact, wherein each of the at least two possible bearers for the contact is stored so as to be associated with the contact via the identifier for the contact; and

selecting from the contacts bearer data store one of the at least two possible bearers for the contact based on the identifier and either based on a predetermined selection strategy or based on trying each of the at least two possible bearers in turn until the connection is made;

wherein the selecting of the bearer for the contact is performed automatically without requiring an input by a user of the device.

2. Canceled.

3. (Previously presented) A method as in claim 1, further comprising:

referring to an owner bearer data store to obtain a list of bearers available for use in establishing a connection to another communication device; and

determining a list of both possible and available bearers for the contact by eliminating from the list of possible bearers for the contact any bearer that does not occur on the list of available bearers.

4. (Previously presented) A method as in claim 1, wherein a public source of contact information is used in obtaining the association information.
5. (Previously presented) A method as in claim 1, wherein in obtaining the association information, a second device communicates to the device the association information needed by the device for automatically selecting a bearer for communication with the contact.
6. (Previously presented) A method as in claim 1, wherein the predetermined selection strategy indicates selecting a bearer based on at least one of the following selection criteria: acceptable price; acceptable bandwidth; acceptable latency; as ordered in a list hosted in the device; fastest to connect when the device attempts to make different connections in parallel via different possible bearers; wherein the acceptable price, acceptable bandwidth, and acceptable latency are as compared to predetermined thresholds for price, bandwidth and latency.
7. (Previously presented) A method as in claim 6, wherein the predetermined threshold for latency indicates a minimum quality of service requirement for the connection.
8. (Previously presented) A method as in claim 7, further comprising periodically comparing the quality of service to the minimum quality of service requirement during communication via the connection and initiating a bearer change if the quality of service is no longer sufficient.
9. (Previously presented) A method as in claim 1, wherein the association information includes a bearer identifier for each of at least two different bearers both associated with a same second device.

10. (Previously presented) A method as in claim 9, wherein the association information for each bearer includes an indication of the contact, a bearer identifier, and an address for use with the bearer.

11. Canceled.

12. Canceled.

13. (Previously presented) A computer program product comprising: a computer readable storage structure embodying computer program code thereon for execution by a computer processor, said computer program code comprising instructions for performing a method as in claim 1.

14. Canceled.

15. (Previously presented) An apparatus for use in a communication device, comprising:

a contacts bearer data store, for storing association information for a contact that is indicated in the contacts bearer data store by an identifier, the association information including a list of at least two possible bearers for providing a connection to the contact, wherein each of the at least two possible bearers for the contact is stored so as to be associated with the contact via the identifier for the contact; and

means for selecting from the contacts bearer data store one of the at least two possible bearers for the contact based on the identifier and either based on a predetermined selection strategy or based on trying each of the at least two possible bearers in turn until the connection is made;

wherein the apparatus is configured to select the bearer for the contact automatically without requiring an input by a user of the communication device.

16. Canceled.

17. (Previously presented) An apparatus as in claim 15, wherein the predetermined selection strategy indicates selecting a bearer based on at least one of the following selection criteria: acceptable price; acceptable bandwidth; acceptable latency; as ordered in a list hosted in the communication device; and fastest to connect; and wherein the acceptable price, acceptable bandwidth, and acceptable latency are as compared to predetermined thresholds for price, bandwidth and latency.

18. (Previously presented) An apparatus as in claim 15, wherein the association information for each bearer includes an indication of the contact, a bearer identifier, and an address for use with the bearer.

19-24. Canceled.

25. (Previously presented) An apparatus for use in a communication device, comprising:

a contacts bearer data store, for storing association information for a contact that is indicated in the contacts bearer data store by an identifier, the association information including a list of at least two possible bearers for providing a connection to the contact, wherein each of the at least two possible bearers for the contact is stored so as to be associated with the contact via the identifier for the contact; and

a network/ bearer selector, for selecting from the contacts bearer data store one of the at least two possible bearers for the contact based on the identifier and either based on a predetermined selection strategy or based on trying each of the at least two possible bearers in turn until the connection is made;

wherein the apparatus is configured to select the bearer for the contact automatically without requiring an input by a user of the communication device.

26. (Previously presented) An apparatus as in claim 25, wherein the contacts bearer data store is configured to include for each of the possible bearers for the contact an indication of the contact, a bearer identifier, and an address for use with the bearer.

27. (Previously presented) A method, comprising:

storing in a contacts bearer data store a plurality of bearers forming a list of possible bearers for a contact that is indicated by an identifier in the contacts bearer data store, wherein the bearers are for use in communicating with the contact and are stored in the contacts bearer data store so as to be associated with the contact via the identifier; and

selecting a bearer for the contact from the list of possible bearers for the contact based on the identifier, and attempting to establish communication with the contact using the selected bearer.

28. (Previously presented) A method as in claim 27, further comprising referring to an owner bearer data store to obtain a list of available bearers for establishing a connection with a communication device, and determining a list of both possible and available bearers for communicating with the contact by eliminating from the list of possible bearers for the contact any bearer that does not occur on the list of available bearers.

29. (Previously presented) A method as in claim 27, wherein the selecting of a bearer for the contact is based also on a predetermined selection strategy or is based also on trying each of the possible bearers in turn until a connection is made for

communication with the contact.

30. (Previously presented) A method as in claim 29, wherein the predetermined strategy indicates selecting a bearer for the contact based on at least one of the following selection criteria: acceptable price; acceptable bandwidth; acceptable latency; as ordered in a list; and fastest to connect; and wherein the acceptable price, acceptable bandwidth, and acceptable latency are as compared to predetermined thresholds for price, bandwidth and latency.

31. (Previously presented) A method as in claim 27, wherein for each bearer for the contact the contacts bearer data store includes an indication of the contact, a bearer identifier, and an address for use with the bearer.

32. (Previously presented) An apparatus, comprising:

data store means for storing a plurality of bearers forming a list of bearers for a contact that is indicated by an identifier in the data store means, wherein the bearers are for use in communicating with the contact and the data store means is configured to store the bearers for the contact so as to be associated with the contact via the identifier; and

means for selecting a bearer for the contact from the list of possible bearers for the contact based on the identifier, and for attempting to establish communication with the contact using the selected bearer.

33. (Previously presented) An apparatus as in claim 32, wherein the contacts bearer data store is configured to include for each bearer for the contact an indication of the contact, a bearer identifier, and an address for use with the bearer.

34. (Previously presented) An apparatus, comprising:

a contacts bearer data store, for storing a plurality of bearers forming a list of possible bearers for a contact that is indicated by an identifier in the contacts bearer data store, wherein the bearers are for use in communicating with the contact and the contacts bearer data store is configured to store the bearers for the contact so as to be associated with the contact via the identifier; and

a network/ bearer selector, for selecting a bearer for the contact from the list of possible bearers for the contact based on the identifier, and for attempting to establish communication with the contact using the selected bearer.

35. (Previously presented) An apparatus as in claim 34, wherein the network/ bearer selector is configured to refer to an owner bearer data store to obtain a list of bearers available for communication, and to determine a list of both possible and available bearers for the contact by eliminating from the list of possible bearers for the contact any bearer that does not occur on the list of available bearers.

36. (Previously presented) An apparatus as in claim 34, wherein the network/ bearer selector is configured to select the bearer for the contact based also on a predetermined selection strategy or based also on trying each of the bearers in turn until the connection is made for communication with the contact.

37. (Previously presented) An apparatus as in claim 36, wherein the predetermined strategy indicates selecting a bearer based on at least one of the following selection criteria: acceptable price; acceptable bandwidth; acceptable latency; as ordered in a list; and fastest to connect; and wherein the acceptable price, acceptable bandwidth, and acceptable latency are as compared to predetermined thresholds for price, bandwidth and latency.

38. (Previously presented) An apparatus as in claim 34, wherein for each bearer for the contact the contacts bearer data store is configured to include an indication of the contact, a bearer identifier, and an address for use with the bearer.

39. (Previously presented) A method for use by a wireless communication device, comprising:

receiving an input from a user of the wireless communication device indicating a command for contacting a second user;

obtaining association information relating to contacting the second user, wherein the association information includes at least two possible bearers for establishing a wireless communication connection with any of one or more devices of the second user, and the association information is related to contacting the second user via an identifier of the second user included with or indicated in the association information;

selecting one of the at least two possible bearers for contacting the second user based on the identifier; and

attempting to establish communication with the second user by initializing a wireless communication connection via the selected bearer.

40. (Previously presented) A method as in claim 39, wherein the selecting of a bearer is based on a predetermined selection strategy.

41. (Previously presented) A method as in claim 39, wherein the selecting of a bearer is based on trying each of the possible bearers in turn until a connection is made for communication with the second user.

42. (Previously presented) An apparatus, for use by a wireless communication device, comprising:

means for receiving an input from a user of the wireless communication device indicating a command for contacting a second user;

means for obtaining association information relating to contacting the second user, wherein the association information includes at least two possible bearers for establishing a wireless communication connection with any of one or more devices of the second user, and the association information is related to contacting the second user via an identifier of the second user included with or indicated in the association information;

means for selecting one of the at least two possible bearers for contacting the second user based on the identifier; and

means for attempting to establish communication with the second user by initializing a wireless communication connection via the selected bearer.

43. (Previously presented) An apparatus as in claim 42, wherein the selecting of a bearer is based on a predetermined selection strategy or is based on trying each of the possible bearers in turn until a connection is made for communication with the second user.

44. (Previously presented) An apparatus, for use by a wireless communication device, comprising a processor configured to:

receive an input from a user of the wireless communication device indicating a command for contacting a second user;

obtain association information relating to contacting the second user, wherein the association information includes at least two possible bearers for establishing a wireless communication connection with any of one or more devices of the second user, and the association information is related to contacting the second user via an identifier of the second user included with or indicated in the association information;

select one of the at least two possible bearers for contacting the second user based on the identifier; and

attempt to establish communication with the second user by initializing a wireless communication connection via the selected bearer.

45. (Previously presented) An apparatus as in claim 44, wherein the selecting of a bearer is based on a predetermined selection strategy.

46. (Previously presented) An apparatus as in claim 44, wherein the selecting of a bearer is based on trying each of the at least two possible bearers in turn until a connection is made for communication with the second user.

47. (Previously presented) An apparatus as in claim 44, wherein for each bearer the association information includes an indication of the second user via an identifier for the second user, a bearer identifier, and an address for use with the bearer.

48. (Previously presented) A method as in claim 1, further comprising receiving an input from a user of the communication device indicating a command to provide a connection for communication with the contact.

49. (Previously presented) An apparatus as in claim 15, further comprising means for receiving an input from a user of the communication device indicating a command to provide a connection for communication with the contact.

IX. EVIDENCE APPENDIX

No evidence has been submitted under Rules 1.130, 1.131, or 1.132 and relied on by appellant in the appeal, nor is there any other evidence entered by the examiner and relied up on by appellant in the appeal.

X. RELATED PROCEEDINGS APPENDIX

There are no and have been no related proceedings, and so there are no corresponding decisions rendered by a court or the Board in any related proceeding.